

**BOARD OF ELECTIONS AND ETHICS****NOTICE OF PUBLIC HEARING  
RECEIPT AND INTENT TO REVIEW INITIATIVE MEASURE**

The Board of Elections and Ethics shall consider in a public hearing whether the proposed measure "Video Lottery Terminal Initiative of 2006" is a proper subject matter for initiative, and, if so, to formulate the Short Title, Summary Statement, and Legislative Text of the measure at the Board's regularly scheduled monthly meeting on Wednesday, May 3, 2006 at 10:30 a.m., at One Judiciary Square, 441 4<sup>th</sup> Street, N.W., Suite 280N, Washington D.C. 20001.

The Board requests that written memoranda be submitted for the record no later than 4:45 p.m., Friday, April 28, 2006 to the Office of the General Counsel at the Board of Elections and Ethics, One Judiciary Square, 441 4<sup>th</sup> Street, N.W., Suite 270N, Washington, D.C. 20001.

Each individual or representative of an organization who wishes to present testimony at the public hearing is requested to furnish his or her name, address, telephone number and name of the organization represented (if any) by calling the General Counsel's office on 727-2194 no later than Monday, May 1, 2006 at 4:45 p.m.

The Short Title, Summary Statement and Legislative Text of the proposed initiative reads as follows:

**SHORT TITLE**

"VIDEO LOTTERY TERMINAL INITIATIVE OF 2006"

**SUMMARY STATEMENT**

This initiative, if passed, will:

- expand the lottery by allowing "Video Lottery Terminals" ("VLTs"), which are very similar to slot machines, in the District of Columbia;
- establish the initial VLT facility at a small site in the Anacostia section of Ward Eight targeted for redevelopment.

**LEGISLATIVE TEXT**

To amend the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia by adding new sections authorizing the licensing of video lottery terminals and recommending that revenues accruing to the District from the operation of video lottery terminals be distributed equally to a District

of Columbia Public Schools Fund, a District of Columbia Senior Citizens Prescription Drug Benefits Fund, and the General Fund of the District of Columbia.

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Lottery Expansion Initiative Act of 2006".

Sec. 2. Findings and Purposes.

The people of the District of Columbia recognize and declare as follows:

- (1) The District needs to create more jobs to address unemployment and to generate additional revenue to address areas of special concern to the residents of the District of Columbia. These areas of special concern are (A) programs to benefit the District of Columbia public schools by providing for the improvement of the educational content, physical condition, vocational programs, security, and general well-being of the District's schools, and (B) programs to aid District senior citizens in obtaining needed prescription medications, especially since such medications are often not provided under currently available Medicare or Medicaid programs. The District is strongly urged to create special purpose funds to support programs in these areas;
- (2) The District would be best served if the needed revenue were generated by a new, self-sustaining program rather than through the imposition of additional taxes or fees on the incomes of District residents and District businesses;
- (3) The District of Columbia Lottery has, since its inception, been a positive example of such a self-sustaining revenue generation program by providing needed revenues for the District through sales and fees on licensed lottery transactions;
- (4) Based on this example, the people of the District of Columbia have chosen to enact the "Lottery Expansion Initiative Act of 2006" to create a new source of lottery revenue by expanding the permissible forms of playing the District of Columbia Lottery to include the playing of lottery games, including but not limited to "scratch-off" cards in electronic form, through Video Lottery Terminals ("VLTs");
- (5) In order to regulate, control, and limit the operation of VLTs, and as set forth herein, (A) only entities licensed by the District of Columbia Lottery and Charitable Games Board (the "Board," as defined below) will operate VLTs, (B) such operations may only occur in facilities specifically designated for VLT operations, (C) the location of the initial VLT Facility is specifically restricted by this Law, (D) the Board has licensing authority to allow additional VLT facilities, and (E) any such expansion may occur only after such expansion is proposed by the Board and approved by the Council of the District of Columbia;
- (6) In order to ensure that the operation of VLTs provides ample revenues to accomplish the purposes of this Law, it is the strong recommendation of the people of the District of Columbia that a usage fee be charged against each licensed operator of VLTs in an

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amount of 25% of the Net VLT Proceeds;

(7) In order to ensure that the majority of the revenues produced from VLT operations are used for the pressing needs identified by the people of the District in this Law, it is the strong recommendation of the people of the District of Columbia that there be established a "District of Columbia Public Schools Fund" and a "District of Columbia Senior Citizens Prescription Drug Benefits Fund". It is the strong recommendation of the people of the District of Columbia that any revenue from VLT usage fees shall be allocated in the following manner: 33 1/3% percent to a District of Columbia Public Schools Fund, 33 1/3% percent to a District of Columbia Senior Citizens Prescription Drug Benefits Fund; and 33 1/3% percent to the General Fund of the District of Columbia as general purpose revenue funds.

### Sec. 3. Statement of law.

The Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3172; D.C. Official Code § 3-1301 et seq.) is amended by adding, at the end, a new Title "Video Lottery Terminals" to read as follows:

#### § 1. DEFINITIONS

The following definitions apply to all provisions in this Title.

- (1) "Board" shall mean the District of Columbia Lottery and Charitable Games Control Board, created pursuant to D.C. Official Code § 3-1301 or, pursuant to Section 207 of Public Law 104-8 and Section 2302 of Public Law 108-11, the Chief Financial Officer of the District of Columbia.
- (2) "Certification Company" means Gaming Laboratories, Inc., a company that performs testing and certification of VLTs, or any similar company, which performs testing, and certification of VLTs and which (i) is not affiliated with any Licensee or any Principal of any Licensee and (ii) is authorized by the Board or by any State to perform testing and certification of VLTs or similar devices.
- (3) "Designated VLT Site" shall mean a site, including the Initial Designated VLT Site, authorized for the conduct of VLT Operations by a Licensee under a License issued by the Board pursuant to the "Lottery Expansion Initiative Act of 2006".
- (4) "Electronic cards" means cards that employ an affixed magnetic storage medium and/or a "smart card" and/or cards containing an integrated circuit chip, but excludes credit cards issued by any Person other than a Licensee.
- (5) "Eligible Applicant" means a Person who meets the requirements imposed in this chapter for obtaining a License to acquire, own, maintain, and operate VLTs within the

District of Columbia.

- (6) "Executive Director" shall mean the Executive Director of the Board, as appointed pursuant to D.C. Official Code § 3-1303.
- (7) "Initial Designated VLT Site" shall mean an approximately 9,000 square foot area consisting of lots 5, 812, and 813 in square 5770 of Ward Eight that is targeted for redevelopment by the Anacostia Economic Development Corporation, and any adjoining parcels brought under common control with any Licensee under the Temporary Initial License or Initial License issued by the Board pursuant to the "Lottery Expansion Initiative Act of 2006".
- (8) "Initial License" means the License issued to an Eligible Applicant by the Board pursuant to section 5 of this Title.
- (9) "License" means the authorization issued to an Eligible Applicant by the Board pursuant to the provisions of the "Lottery Expansion Initiative Act of 2006" to: (A) acquire (by purchase, lease or otherwise) and own VLTs certified by a Certification Company, and (B) install, maintain and operate VLTs and conduct VLT Operations at a Designated VLT Site.
- (10) "Licensee" means an Eligible Applicant issued a License by the Board in accordance with the "Lottery Expansion Initiative Act of 2006".
- (11) "Manufacturer" means any Person (A) who or which manufactures, fabricates, assembles and/or programs VLTs including parts or portions thereof (collectively "VLT Equipment"), (B) whose VLT Equipment is certified by a Certification Company, (C) who either (i) has applied for and been issued a Permit by the Board to sell, lease or otherwise provide VLT Equipment to Licensees or Permittees, or (ii) has been, and is currently licensed in any State to sell, lease or otherwise provide VLT Equipment to Persons authorized to conduct VLT Operations in such other State, and (D) who is not a Licensee.
- (12) "Maximum Permissible Designated VLT Sites" shall mean the maximum number of Designated VLT Sites for which the Board may issue a License. The Maximum Permissible Designated VLT Sites shall be set in accordance with section 6 of this Title.
- (13) "Net VLT Proceeds" means the total of all cash and property received by a Licensee from VLT Operations minus the amount of the Payout.
- (14) "Payout" means premiums, merchandise, prizes, promotional complementaries or anything of value provided via a voucher and/or Electronic Card, which the player of a VLT may be entitled to receive as a result of the playing of the VLT.
- (15) "Permit" means any authorization (other than a License) issued to a Manufacturer, supplier, Service Technician or any person (other than a Licensee) by the Board under the

provisions of the "Lottery Expansion Initiative Act of 2006" to participate in VLT Operations and/or the provision, repair, maintenance and servicing of VLTs and related equipment and supplies.

(16) "Permittee" means a Person (other than a Licensee) issued a Permit by the Board under the provisions of the "Lottery Expansion Initiative Act of 2006".

(17) "Person(s)" means individuals, partnerships, limited liability companies, corporations and other legal entities and associations.

(18) "Principal" means any Person who (A) holds or controls directly or indirectly ten (10%) percent or more ownership or economic interest in an applicant for, or holder of a License or Permit, or (B) receives ten (10%) percent or more revenue interest in the form of a commission, finder's fee, loan fee or interest, or any other compensation arising out of or relating to VLT Operations; provided, however, that no bank, regulated mutual fund, insurance company, or other regulated financial institution ("Financial Institution") shall be deemed a Principal under the "Lottery Expansion Initiative Act of 2006" so long as (A) the Financial Institution holds its interests in an applicant for, or holder of, a License or Permit for investment purposes only, and (B) the Financial Institution does not own a majority of the equity of the applicant for, or holder of, a License or Permit.

(19) "Service technician" means any Person (other than a Licensee or Manufacturer and/or their respective employees) who (A) is trained by a Manufacturer, Distributor, other qualified entity, or has been certified in a training program approved by the Board, to perform one or more of the following functions with respect to a VLT: (i) clearing paper or money jams, (ii) changing paper contained within the VLT, (iii) retrieving money from a VLT, or (iv) performing any repairs, parts replacements, maintenance, cleaning, and other servicing to VLTs, and (B) holds a Permit issued by the Board under the provisions of the "Lottery Expansion Initiative Act of 2006" to perform those functions for a Licensee or Permittee.

(20) "Temporary Initial License" shall mean a License issued pursuant to section 4 of this Title.

(21) "VLT" means a lottery machine that performs only the following functions: (A) accepts paper or coin currency or vouchers to enable a player to participate in one or more games; (B) dispenses, at the player's request, (i) an amount of coins equal to the player's credit balance, (ii) a token, voucher and/or Electronic Card that has physically or electronically imprinted upon it the game identifier and the player's credit balance, or (iii) some combination thereof, (C) shows on a video screen, reels or other electronic display, rather than on a paper ticket, the results of each game played; (D) shows on a video screen or other electronic display, in an area separate from the game results, the player's credit balance; (E) houses a game platform that is connected to a central system; (F) contains within the common central system pools of lottery game tickets and (i) such pools are defined by game type, denomination, and the amount bet, (ii) each pool, regardless of where its electronic tickets are assigned, has its own hold or par, and (iii) a

player plays against other players through the VLT and its designated pool; and (G) is monitored and controlled by a central computer system which maintains the integrity of the operations of the individual VLT.

(22) "VLT Operations" means the use, operation, offering, or conduct of VLT gaming by a Licensee in accordance with the provisions of the "Lottery Expansion Initiative Act of 2006".

## § 2 MANAGEMENT OF VLT FEE REVENUE.

All funds, fees, fines, or other revenues collected by the Board with respect to the licensing, operation, administration, or regulation of VLTs, including but not limited to any VLT usage fees (the "VLT Fee Revenue") shall be accounted for and managed in accordance with the applicable laws and regulations of the District of Columbia.

## § 3 PROHIBITION ON UNAUTHORIZED ACTIVITIES WITH RESPECT TO VLTs

(a) No Person shall acquire, own, operate, provide, distribute, repair or maintain VLTs and/or conduct VLT Operations unless and until such Person shall be issued a License or Permit, including a Temporary Initial License or Initial License, to engage in such activity, by the Board under the provisions of the "Lottery Expansion Initiative Act of 2006", or be exempt from permitting as provided in the "Lottery Expansion Initiative Act of 2006".

(b) Notwithstanding subsection (a) of this section, any natural person who is an employee of a non-natural Person that has obtained a License or Permit may, so long as he or she is acting within the scope of his or her employment for said non-natural Person, acquire, operate, provide, distribute, repair or maintain VLTs and/or conduct VLT Operations to the extent authorized in any License or Permit issued to said nonnatural Person.

## § 4 LICENSING FOR OPERATION OF VLTs AND CONDUCT OF VLT OPERATIONS; TEMPORARY INITIAL LICENSE

(a) Beginning forty-five (45) days following the effective date of this section, and no earlier, the Board shall begin accepting applications for the Temporary Initial License to conduct VLT Operations.

(b) Any Person applying for the Temporary Initial License under subsection (a) of this section shall complete and submit the form of application, which is, as of the effective date of this section, promulgated by the Board as the application for obtaining a license to become a lottery sales agent pursuant to D.C. Official Code § 3-1315. In addition, any Person applying for the Temporary Initial License under subsection (a) of this section shall submit the following:

(1) A sworn affidavit that the Person and, if applicable, all Principals are, at the time of

application, not disqualified from being a Licensee (or Principal of a Licensee) pursuant to the provisions of section 12 of this Title; and

(2) Documentation demonstrating that the Person owns and has the right to possess more than 50% of, is the lessee of and has the right to possess more than 50% of, or has the contractual right to acquire and possess more than 50% of or be the lessee of and possess more than 50% of property that is eligible to become the Initial Designated VLT Site.

An application for the Temporary Initial License shall be deemed complete if it includes all of the documents required under this section. The Board is required to accept any application that is deemed complete under this subsection.

(c) The Board shall grant the Temporary Initial License to the Person who, on the earliest date following the effective date of the "Lottery Expansion Initiative Act of 2006", meets the following criteria: (1) the Person submits an application that is deemed complete pursuant to subsection (b) of this section, and (2) the Person has demonstrated that the Person owns and has the right to possess more than 50% of, is the lessee of and has the right to possess more than 50% of, or has the contractual right to acquire and possess more than 50% of, or be the lessee of and possess more than 50% of property that is eligible to become the Initial Designated VLT Site. The Board shall issue a decision granting or denying a Person's application for the Temporary Initial License within fourteen (14) days of the Board's receipt of the application.

(d) Any Person whose application has been denied pursuant to subsection (c) of this section may, within thirty (30) days of the denial of that application, appeal the Board's decision to deny the application to the Superior Court of the District of Columbia.

(f) The Person awarded a Temporary Initial License (the "Temporary Initial Licensee") shall have all the rights of any Licensee under this chapter; provided, however, that the Temporary Initial License shall expire on the earliest of (1) the granting by the Board of an Initial License to the Temporary Initial Licensee pursuant to section 5(c) of this Title, or (2) the denial by the Board of an application by the Temporary Initial Licensee for the Initial License pursuant to section 5(d) or 5(e) and the expiration of all appeals of that denial pursuant to section 5(g) of this Title.

#### § 5 LICENSING FOR OPERATION OF VLTs AND CONDUCT OF VLT OPERATIONS; INITIAL LICENSE

(a) Within 180 days of the Board's granting of a Temporary Initial License, the Board shall create and publish regulations setting forth a procedure by which Persons may apply for the Initial License (the "Initial Application Regulations"). The content of the Initial Application Regulations are within the discretion of the Board, except that Initial Application Regulations must require the Person applying for the License ("Initial License Applicant") to provide the following information:

(1) Information demonstrating that the Initial License Applicant owns and has the right

to possess more than 50% of, is the lessee of and has the right to possess more than 50% of, or has the contractual right to acquire and possess more than 50% of, or be the lessee of and possess more than 50% of property that is eligible to become the Initial Designated VLT Site;

(2) Information sufficient to allow the Board to determine whether the Initial License Applicant is "suitable" pursuant to sections 11 and 12 of this Title; and

(3) If the Initial License Applicant is a non-natural person, a list of all employees, officers, and Principals of the Initial License Applicant.

(b) Within (90) days following the Board's publication of the Initial Application Regulations, the Temporary Initial Licensee may submit an application for the Initial License in accordance with the Initial Application Regulations.

(c) If the Temporary Initial Licensee submits an application for the Initial License pursuant to subsection (b) of this section, the Board shall determine within ninety (90) days of the date of said application whether to immediately grant the Initial License to the Temporary Initial Licensee. The Board shall award the Initial License to the Temporary Initial Licensee if it determines that: (1) the Temporary Initial Licensee is an Eligible Applicant, (2) the Temporary Initial Licensee (A) owns and has the right to possess more than 50% of or (B) is the lessee of and has the right to possess more than 50% of property eligible to be the Initial Designated VLT Site, and (3) the Board has found, after investigation, that (A) the License Application is complete, and (B) the Temporary Initial Licensee is suitable, according to the provisions of section 11 and 12 of this Title

(d) If, after the expiration of this ninety (90) day period, the Board determines that the Temporary Initial Licensee does not meet the criteria of subsection (c) of this section, but that such criteria could be satisfied by the Temporary Initial Licensee by taking feasible and reasonable corrective measures, including but not limited to a transfer of interests held by one or more Principals of the Temporary Initial Licensee, the Board shall postpone its decision on the application of the Temporary Initial Licensee and issue a written statement to the Temporary Initial Licensee setting forth the corrective measures that need to be taken by the Temporary Initial Licensee in order for the Board to grant the Initial License. Otherwise, if, after the expiration of the ninety (90) day period, the Board determines that the Temporary Initial Licensee does not meet the criteria of subsection (c) of this section, the Board shall issue a decision denying the application of the Temporary Initial Licensee

(e) If the Board postpones its decision and requests corrective measures pursuant to subsection (d) above, the Board shall allow the Temporary Initial Licensee 180 days to take the measures set forth by the Board. After the expiration of this period, the Board shall grant the Initial License to the Temporary Initial Licensee if it determines (1) the corrective measures required by the Board have been taken, and (2) after completion of the corrective measures, the Temporary Initial Licensee has met the criteria for the Initial License under subsection (c) of this section. Otherwise, the Board shall issue a decision



denying the Temporary Initial License.

(f) If the Board denies the application of the Temporary Initial Licensee pursuant to subsection (d) or subsection (e) of this section and all appeals of that denial pursuant to subsection (g) of this section have been exhausted, or if the Temporary Initial Licensee does not apply for the Initial License within the time period set forth in subsection (c) of this section, the Board shall then accept further applications for the Initial License. The Board shall, on a rolling basis, evaluate each application for the Initial License made under this subsection and award the Initial License to the first Person who has submitted a complete application for the Initial License and whom the Board determines meets the criteria set forth in subsection (c) of this section.

(g) Any Person whose application has been denied pursuant to this section may, within thirty (30) days of the denial of that application, appeal the Board's decision to deny the application to the Superior Court of the District of Columbia.

#### § 6 LICENSING FOR OPERATION OF VLTs AND CONDUCT OF VLT OPERATIONS; SUBSEQUENT LICENSES

(a) The Board may, at any time adopt and approve a proposal to expand the Maximum Permissible Designated VLT Sites and to accept applications for additional License(s) to conduct VLT Operations for each newly permitted Designated VLT Area ("Expansion Proposal"). The Board shall include in any Expansion Proposal a specific description of the property in which the Designated VLT Site(s) for the additional License(s) granted under the Expansion Proposal shall be located in the event that the Expansion Proposal becomes effective under this section.

(b) Immediately after the adoption and approval of an Expansion Proposal by the Board under subsection (a) of this section, the Expansion Proposal shall be submitted to the Council of the District of Columbia ("Council") for approval. If approved by the Council, the Expansion Proposal shall take effect and the Maximum Permissible Designated VLT Sites shall be expanded as set forth in the Expansion Proposal.

(c) Within ninety (90) days of the approval of an Expansion Proposal by the Council, the Board shall create and publish regulations setting forth a procedure by which Persons may apply for a License to conduct VLT Operations at one or more of the newly permitted Designated VLT Sites (the "Expansion License Application Regulations"). The content of the Expansion License Application Regulations are within the discretion of the Board, except that the Expansion License Application Regulations must require each Person applying for the License ("Expansion License Applicant") to provide the following information:

(1) Information demonstrating that the Expansion License Applicant owns and has the right to possess more than 50% of, is the lessee of and has the right to possess more than 50% of, or has the contractual right to acquire and possess more than 50% of, or be the lessee of and possess more than 50% of property that is eligible to become a Designated

VLT Site under the Expansion Proposal;

- (2) Information sufficient to allow the Board to determine whether the Expansion License Applicant is "suitable" pursuant to sections 11 and 12 of this Title; and
- (3) If the Expansion License Applicant is a non-natural person, a list of all employees, officers, and Principals of the Expansion License Applicant.
- (d) Immediately following the Board's publication of the Expansion License Application Regulations (the "Expansion Application Period"), the Board shall accept applications for Licenses in accordance with the Expansion License Application Regulations.
- (e) The Board shall award the Licenses permitted under the Expansion Proposal to the Person(s) who have submitted a complete application for the Expansion License Application on the earliest date and who have met the following criteria: (1) the Person is an Eligible Applicant, (2) the Person owns and has the right to possess more than 50% of, is the lessee of and has the right to possess more than 50% of, or has the contractual right to acquire and possess more than 50% of, or be the lessee of and possess more than 50% of property that is eligible to become a Designated VLT Site under the Expansion Proposal, and (3) the Board has found, after investigation, that (i) the License Application is complete and (ii) the Eligible Applicant is suitable, according to the provisions of section 11 and 12 of this Title.
- (f) Any Person whose application has been denied pursuant to this section may, within thirty (30) days of the denial of that application, appeal the Board's decision to deny the application to the Superior Court of the District of Columbia.

#### § 7 AUTHORITY GRANTED LICENSEE; CONDITIONS

Any License (including the Temporary Initial License and the Initial License) shall entitle the Licensee to acquire (by purchase, lease or otherwise), own, install, operate, repair and maintain VLTs certified by a Certification Company and to conduct VLT Operations, subject to the requirements of this chapter and Rules and Regulations adopted, from time to time, by the Board pursuant to the authority granted herein, and specifically subject to the following requirements and restrictions:

- (1) The Licensee may only conduct VLT Operations at a Designated VLT Site; provided, however, that the Licensee may conduct auxiliary services, including but not limited to the provision of parking facilities, food service, or lodging service, on land adjacent to or within reasonable distance of the Designated VLT Site;
- (2) The Licensee operating such Designated VLT Site shall:
  - (A) Provide, at no cost or expense to the Board, sufficient space and facilities at the Designated VLT Site for the installation and operation of the central computer required pursuant to section 1(21) of this Title and the staff of the Board engaged to operate such

central computer; and

(B) Furnish and install the central computer and software; the cost of which central computer and software ("Central Computer Cost") shall be paid by the Licensee.

(3) The Licensee shall maintain continuous suitability for the operation of VLT Operations, under the provisions of sections 13 and 14 of this Title;

(4) The Licensee shall grant the Board the right of inspection of all VLTs, all VLT related Equipment, and all of the Licensee's books and records, and shall permit the Board (including the Director and/or any agent thereof) unrestricted access to the Designated VLT Site; and

(5) Any facility at which VLT Operations are conducted pursuant to the License shall be in compliance with all laws, rules, and regulations of the District of Columbia, including, but not limited to, zoning requirements.

#### § 8 REQUIREMENTS FOR VIDEO LOTTERY TERMINALS.

No VLT shall be installed and/or operated in the District of Columbia by a Licensee or otherwise unless such VLT shall:

(1) Be of a class of VLTs which either (A) have been certified by a Certification Company and are in compliance with the provisions of the "Lottery Expansion Initiative Act of 2006" and the Rules and Regulations adopted, from time to time, by the Board under the authority granted in the "Lottery Expansion Initiative Act of 2006", or (B) are manufactured or assembled by a Manufacturer;

(2) Have a serial number or other identification number permanently affixed thereto by the Manufacturer;

(3) Be connected to a central computer; which central computer must be located on the premises of a Designated VLT Site but shall be owned and operated by the District of Columbia, maintained as directed by the Board, and accessible at all time by the Board or its designee;

(4) Be capable of being continuously monitored, polled and read by the central computer; and

(5) Contain an erasable, programmable, read-only memory chip ("EPROM") approved by the Certification Company, which will be paid for by the Licensee and will be owned by the District of Columbia, containing proprietary data, software and firmware required to operate and to secure the operation of the VLT.

#### § 9 PERMITS FOR MANUFACTURE, DISTRIBUTION, SERVICE, REPAIR, OR

## MAINTENANCE OF VLTs.

- (a) The Board shall create and, from time to time, amend a form which shall be completed and submitted by any Person seeking a Permit from the Board to manufacture, distribute, service, repair, or perform maintenance on VLTs in the District of Columbia ("Permit Application"). The Board in its discretion shall determine the content of the Permit Application.
- (b) The Board shall issue the appropriate Permit to the applicant upon (1) receipt by the Board of an application for a Permit submitted by a Manufacturer or Service Technician ("Permit Application"), as the case may be, and (2) a finding by the Board, after investigation, that (A) the Permit Application is complete, and (B) the applicant is suitable, according to sections 11 and 12 of this Title. The Board must grant or deny any Permit Application within ninety (90) days of the date the Permit Application is received by the Board.
- (c) The Permit shall entitle the Permittee to engage in the activity described in the Permit Application and the Permit subject to the requirements of the "Lottery Expansion Initiative Act of 2006" and rules and regulations adopted, from time to time, by the Board pursuant to the authority granted herein. Each Permit issued shall require, as a condition to the Permittee conducting the permitted activity, that the Permittee maintain continuous suitability.
- (d) Any Person whose Permit Application has been denied pursuant to this section may, within thirty (30) days of the denial of that application, appeal the Board's decision to deny the application to the Superior Court of the District of Columbia.

## § 10 TERM OF LICENSES AND PERMITS; RENEWAL; TRANSFER

- (a) All Licenses and Permits shall be issued for a period of five years and shall be renewed for succeeding five-year periods upon the submission by the Licensee or Permittee of a completed, sworn application ("Renewal Application"). Provided that the Licensee or Permittee shall file a completed Renewal Application prior to expiration of its current License or Permit, the term of its current License or Permit shall be deemed extended until the later of the disposition by the Board of such Renewal Application and any judicial review of such disposition.
- (b) Licenses and Permits shall not be transferable without the prior approval of the Board upon joint application of the transferor and transferee.
- (c) Prior to the consummation of a transfer of a License or Permit pursuant to subsection (b) of this section, the following must occur: (1) the proposed transferee ("Proposed Transferee") shall file a completed and sworn License Application or Permit Application, as the case may be, and (2) the Board shall promptly conduct a suitability investigation of the Proposed Transferee and promptly advise the Proposed Transferee and the proposed transferor of the results thereof. If the Board finds that the Proposed Transferee is

suitable, the Board shall promptly issue its written approval of the proposed transfer as provided for in subsection (b) of this section. A determination by the Board that a Proposed Transferee is not suitable shall have no effect on the status or continuity of a License or Permit to the suitability of a Licensee or Permittee provided the proposed transfer is not consummated. The Proposed Transferee shall reimburse the Board for all costs and expenses incurred by the Board in connection with any such suitability investigation.

#### § 11 SUITABILITY GENERALLY.

(a) Other than applicants for the Temporary Initial License, no applicant shall be granted a License or Permit under the provisions of the "Lottery Expansion Initiative Act of 2006" unless the applicant has demonstrated to the Board that the applicant is a "suitable" recipient of the License or Permit for which the applicant has applied.

(b) For purposes of the "Lottery Expansion Initiative Act of 2006", an applicant for a License or Permit is "suitable" and/or has met "suitability" standards if the applicant has satisfied the requirements established by the "Lottery Expansion Initiative Act of 2006", including the requirement that the applicant:

- (1) Has satisfied the suitability standards provided in section 12 of this Title;
- (2) Is capable, by virtue of training, education, business experience and/or a combination of the same, of conducting the activity for which the License or Permit is sought;
- (3) If a Licensee, has demonstrated that the applicant has, or can acquire from others, sufficient funds to renovate and/or construct a facility on a Designated VLT Site; acquire and install VLTs and related VLT Equipment and commence and continue VLT Operations; and
- (4) If a non-natural Person, has demonstrated that the applicant's Principals are suitable.

(c) Except as otherwise provided herein, a Person (1) whose application for a License or Permit has been denied, (2) whose License or Permit has been issued subject to a condition, (3) whose License or Permit has been suspended or revoked, (4) against whom a fine has been levied by the Board, or (5) who has been determined by the Board (prior to a hearing) to be "unsuitable", shall have the right to a hearing before the Board with respect to any such denial, condition, suspension, revocation, levy or determination; and such findings, decision and hearing shall be conducted in accordance with the D.C. Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), including any right to judicial review following such hearing.

#### § 12 SUITABILITY STANDARDS, DISQUALIFICATION AND DIVESTITURE.

(a) For the purposes of the "Lottery Expansion Initiative Act of 2006", an applicant for a

License, Permit or approval is "suitable" if the applicant:

- (1) Is a Person of good character, honesty, and integrity;
  - (2) Has not been convicted of, or entered a plea resulting in conviction of: (A) Any offense punishable by imprisonment of more than one year; (B) Theft or attempted theft, or illegal possession of stolen property; (D) Any offense involving fraud or attempted fraud; or (D) Illegal gambling as defined by the laws or ordinances of any municipality, any parish or county, any state, or of the United States;
  - (3) Is a person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a present threat to the public interest of the District of Columbia or to the effective regulation and control of VLT Operations or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in connection with VLT Operations and the business and financial affairs of the applicant incident thereto;
  - (4) Is capable of conducting and likely to conduct the activities for which the applicant has requested licensing, permitting or approval in accordance with the provisions of this chapter and/or the rules and regulations adopted, from time to time, by the Board; and
  - (5) Is not disqualified pursuant to the provisions of subsection (b) of this section and, if the applicant is a non-natural Person, has demonstrated to the Board that it has adopted and employs adequate hiring and screening procedures to ensure that no current or future employee of the applicant would be disqualified under subsections (b)(1) or (b)(2) of this section.
- (b) The Board shall have the right to deny, suspend, condition, or revoke a License or Permit of any applicant for a License or Permit upon a specific finding by the Board that the applicant is 'unsuitable' on the basis of the following criteria:
- (1) The applicant has been convicted of, or entered a plea resulting in conviction of: (a) Any offense punishable by imprisonment of more than one year; (b) Theft or attempted theft, or illegal possession of stolen property; (c) Any offense involving fraud or attempted fraud; or (d) Illegal gambling as defined by the laws or ordinances of any municipality, any parish or county, any state, or of the United States;
  - (2) There is a current prosecution or pending criminal charge against the applicant in any federal or state jurisdiction for an offense described in subsection (b)(1) of this section;
  - (3) The applicant is not current in filing all applicable personal income tax returns and in the payment of all income taxes, penalties and interest owed to the District of Columbia or the federal government, excluding items currently being disputed by the applicant; or
  - (4) The repeated failure by the applicant to provide information and documentation reasonably requested by the Board in order to determine suitability as defined in this

chapter; provided however that such failure shall not be considered by the Board during the period of any judicial challenge by the applicant with respect to the information requested and/or the confidentiality to be afforded to the same by the Board.

(c) Any Person whose License or Permit has been revoked or who has been found "unsuitable" in the District of Columbia is not eligible to obtain any License or Permit pursuant to the provisions of the "Lottery Expansion Initiative Act of 2006" for a period of one (1) year from the date the revocation or finding of unsuitability becomes final beyond right of judicial review.

(d) In the event of a current criminal prosecution of an offense as provided in subsection (b)(2) of this section, the Board, where applicable, shall have the discretion to defer a determination' on an applicant's suitability pending the outcome of the proceedings provided that if a decision is deferred pending such outcome the Board, where applicable, may take such action as is necessary to protect the public interest.

(e) If the Board finds that a Principal of a Licensee or Permittee or its parent entity is not suitable, and if as a result, the Licensee or Permittee is no longer entitled to engage in the activity licensed or permitted, then and in that event the Board shall, subject to the exercise of the Principal's hearing and review rights under this chapter, propose action necessary to protect the public interest. Where possible, in lieu of an order of revocation or suspension of a License or Permit, the Board shall issue an order of disqualification naming the unsuitable Principal and declaring that such Principal may not, except as provided in subsection (f) of this section, (1) directly or indirectly exercise significant influence over the Licensee or Permittee; (2) directly or indirectly receive dividends or interest on securities of the Licensee or Permittee; (3) directly or indirectly receive remuneration or other economic benefit from the Licensee or Permittee; or (4) continue owning or holding, directly or indirectly, securities of the Licensee or Permittee or remain as a manager, officer, director, or partner of the Licensee or Permittee.

(f) Commensurate with the issuance of an order of disqualification under subsection (e) of this section, the Board shall issue an order declaring that such disqualified Principal shall, within thirty (30) days of the disqualifying order, transfer all securities of the Licensee or Permittee owned by the Principal to the trustee of a blind trust as to which the trustee shall be appointed or approved by the Board, which approval shall not be unreasonably withheld or delayed. The trustee of the blind trust shall have the sole and exclusive rights to exercise any right conferred by or incidental to the securities so transferred to and held in the blind trust, except that upon receipt of instruction from the Principal beneficiary, the trustee shall sell so much of the securities of the Licensee or Permittee held in the blind trust as instructed and remit the net proceeds of the sale to the Principal beneficiary together with any dividends, interest, remuneration or other economic benefit associated therewith.

### § 13 PERMISSION TO AWARD LICENSES TO PERSONS TO CONDUCT BUSINESS PRIMARILY AS VLT OPERATORS

Notwithstanding the provisions of D.C. Official Code § 3-1315, the Board may issue a License or Permit or renew a License or Permit to persons whose primary business is to conduct VLT Operations or to perform services related to VLT Operations. The fact that a Person's primary business is to conduct VLT Operations or to perform services related to VLT Operations shall not be a valid basis for the Board to deny any License or Permit or any renewal of a License or Permit.

§ 14 POWERS AND DUTIES OF THE BOARD RELATIVE TO VLT OPERATIONS.

(a) In addition to those powers granted the Board elsewhere in the "Lottery Expansion Initiative Act of 2006", with respect to VLT Operations, the Board shall adopt all rules and regulations (collectively "Rules and Regulations") necessary to implement, administer, and regulate VLTs and VLT Operations as authorized in the "Lottery Expansion Initiative Act of 2006".

(b) Such Rules and Regulations shall include:

(1) Designation of any technical qualifications (other than suitability as provided for in the "Lottery Expansion Initiative Act of 2006") which must be possessed by a Manufacturer, Distributor or Service Technician in order to be eligible to receive and retain a Permit;

(2) Procedures for the counting, collection and deposit of Net VLT Proceeds into a Licensee's restricted bank account;

(3) Methods and rules permitting VLTs to be linked for the offering of progressive payouts;

(4) Procedures for (A) the accumulation and provision by Licensees and Permittees of specified records, data, information and reports, including financial and income records and reports (collectively "Financial and Operation Materials") and (B) the retention of Financial and Operational Materials by past and present Licensees and Permittees, necessary to enable the Board to properly implement and enforce the provisions of this chapter;

(5) Requirements establishing minimum physical security standards to be observed in Designated VLT Sites;

(6) Requirements establishing standards of maintenance of VLTs and related VLT Equipment; and

(7) Provisions for the revocation and/or suspension of Licenses and Permits, upon post issuance findings of "unsuitability," subject to the rights of Licensees, Permittees and Principals under section 13 of this Title.



(c) The Board may:

- (1) Conduct any reasonable investigation which the Board determines necessary to fulfill its responsibilities under the provisions of the "Lottery Expansion Initiative Act of 2006";
- (2) Inspect and examine all premises in which Designated VLT Sites are situated and/or where VLTs are manufactured, sold, or repaired;
- (3) Inspect VLTs and related VLT Equipment and supplies;
- (4) Summarily seize and remove VLTs and related VLT Equipment and supplies from any location where such VLTs and/or VLT Equipment and supplies are not or have not been approved, operated, or maintained pursuant to the "Lottery Expansion Initiative Act of 2006" and/or the owners or operators thereof do not hold valid Licenses and/or Permits required by the "Lottery Expansion Initiative Act of 2006";
- (5) Deny, revoke, condition, or suspend the License or Permit of any Person who knowingly violates any provision of this chapter or any of the Rules or Regulations adopted pursuant to the authority granted in the "Lottery Expansion Initiative Act of 2006";
- (6) Take steps necessary to collect fees owed to the Board or the Lottery Fund, including commencing and prosecuting appropriate legal actions; and
- (7) Delegate to the Executive Director and/or cause the Executive Director to perform or exercise any or all of the rights and duties of the Board set forth in subsections (c)(1), (c)(2), (c)(3), (c)(4), and (c)(6).

§ 15 EXECUTIVE DIRECTOR; POWERS AND DUTIES. The Executive Director shall, upon and subject to the direction of the Board:

- (1) Conduct an investigation of any applicant, Licensee, or Permittee for "suitability" and/or violations of the Rules and Regulations and undertake any other investigation, inspection or enforcement action if such investigation, inspection, or action is reasonably necessary to the thorough and efficient implementation of this chapter;
- (2) Establish, maintain, and operate the mechanism and equipment necessary to conduct polling, monitoring or reading of VLTs and VLT Operations;
- (3) Examine VLTs and related VLT Equipment and/or records related thereto and to VLT Gaming Operations;
- (4) Report to the Board any violation of law or Rules or Regulations discovered by the Director; and
- (5) Engage, train, supervise and direct such staff, as the Executive Director and the

Board shall deem necessary or appropriate to enable the Executive Director to perform his duties and obligations under this chapter.

#### § 16 GAMING DEVICE LIMITATIONS.

Except as otherwise provided by law, no gaming devices other than VLTs shall be present and/or installed and/or operated in any Designated VLT Site.

#### § 17 PROHIBITED RELATIONSHIPS.

(a) In addition to any other relationship prohibited by the "Lottery Expansion Initiative Act of 2006", no person employed by or performing any function on behalf of the Board or the Director may:

(1) Be an officer, director, owner, or employee of any Person holding a License or Permit issued by the Board; and

(2) Have or hold any interest, direct or indirect, in, or engage in any commercial transaction or enter into any business relationship with, any Person holding a License or Permit issued by the Board;

(b) No elected public official shall engage in any business activity with a Licensee or Permittee except as a patron. As used in this subsection, the term "business activity" shall specifically include but not be limited to contracts: (1) for the sale or purchase of goods, merchandise, and services; (2) to provide or receive legal services; advertising, public relations, or any other business or personal services; (3) for the listing, purchase, or sale of immovable property or options or other rights relating thereto; and (4) modifying ownership or possessory interests in stocks, bonds, securities, or any financial instruments.

(c) No Person permitted by the Board as a Manufacturer or Distributor may participate in the design, development, ownership, sale, lease, license or operation of any computer program, firmware, software, or any other mechanism that is or may be used for the polling or reading of VLTs or VLT Operations.

(d) No Person may be an owner, investor, employee, or contractor engaged in any VLT operations if such Person has been convicted of, or entered a plea resulting in conviction of: (1) Any offense punishable by imprisonment of more than one year; (2) Theft or attempted theft, or illegal possession of stolen property; (3) Any offense involving fraud or attempted fraud; or (4) Illegal gambling as defined by the laws or ordinances of any municipality, any parish or county, any state, or of the United States; or if there is a current prosecution or pending criminal charge against such Person in any federal or state jurisdiction for an offense described in this subsection.

#### § 18 PROHIBITION OF MINORS

- (a) No Licensee, Permittee or any agent or employee of either, shall allow a person under the age of twenty-one to play or operate a VLT.
- (b) Each Licensee shall report and remit to the Director quarterly in arrears all winnings withheld from customers who are determined to be under the age of twenty-one.
- (c) The Board may fine and/or revoke and/or suspend the License or Permit of any Person, who is found by the Board to have willfully committed a violation of this section, provided, however, that if the Licensee affected by a revocation or suspension made under this section, the Licensee shall be entitled to an administrative hearing before the Board pursuant to section 13(c) of this Title, and, if the affected Licensee chooses to exercise that right, the revocation or suspension shall not take effect until the conclusion of the hearing held pursuant to that section.

**§19 UNAUTHORIZED VIDEO LOTTERY TERMINALS; SKIMMING OF VIDEO LOTTERY TERMINAL PROCEEDS; PENALTIES.**

- (a) Except as otherwise permitted by law, any Person who possesses or operates a VLT without holding a current valid License or Permit required by the "Lottery Expansion Initiative Act of 2006" or at any location other than a Designated VLT Site shall be subject to a fine of not more than ten thousand dollars (\$10,000) per violation.
- (b) Any Person who intentionally excludes, or takes any action in an attempt to exclude anything of value from the deposit, counting, collection, or computation of revenues derived from VLT Operations shall be subject to a fine of not more than ten thousand dollars (\$10,000) per violation, in addition to any other criminal penalties which may be imposed pursuant to any other provision of the District of Columbia Official Code.
- (c) Any VLT used or offered for play in violation of the provisions of the "Lottery Expansion Initiative Act of 2006", except as otherwise permitted by law, shall be considered a gambling device for purposes of D.C. Official Code § 22-1704.

Sec. 4. Effective date.

This act shall take effect after a 30-day period of Congressional review as provided in section 602(c) of the Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206(c)(1)).

**DISTRICT OF COLUMBIA  
HISTORIC PRESERVATION REVIEW BOARD**

**NOTICE OF PUBLIC HEARING**

The D.C. Historic Preservation Review Board will hold a public hearing to consider applications to designate the following properties as historic landmarks in the D.C. Inventory of Historic Sites. The Board will also consider the nomination of the properties to the National Register of Historic Places:

**Case No. 01-01: Ulysees S. Grant School**

**2130 G Street, NW**

**Square 80, north Part of Lot 829 (old Lots 10, 11, 17, 18 and Part of 12)**

**Case No. 02-04: Old Engine Company 12**

**1626 North Capitol Street, NW**

**Square 3101, Lot 1**

The hearing will take place at **10:00 a.m. on Thursday, May 25, 2006**, at 441 Fourth Street, NW (One Judiciary Square), in Room 220 South. It will be conducted in accordance with the Review Board's Rules of Procedure (10 DCMR 26). A copy of the rules can be obtained from the Historic Preservation Office at 801 North Capitol Street, NE, Room 3000, Washington, DC 20002, or by phone at (202) 442-8800.

The Board's hearing is open to all interested parties or persons. Public and governmental agencies, Advisory Neighborhood Commissions, property owners, and interested organizations or individuals are invited to testify before the Board. Written testimony may also be submitted prior to the hearing. All submissions should be sent to the address above.

For each property, a copy of the historic landmark application is currently on file and available for inspection by the public at the Historic Preservation Office. A copy of the staff report and recommendation will be available at the office five days prior to the hearing. The office also provides information on the D.C. Inventory of Historic Sites, the National Register of Historic Places, and Federal tax provisions affecting historic property.

If the Historic Preservation Review Board designates the property, it will be included in the D.C. Inventory of Historic Sites, and will be protected by the D.C. Historic Landmark and Historic District Protection Act of 1978. The Review Board will simultaneously consider the nomination of the property to the National Register of Historic Places. The National Register is the Federal government's official list of prehistoric and historic properties worthy of preservation. Listing in the National Register provides recognition and assists in preserving our nation's heritage. Listing provides recognition of the historic importance of properties and assures review of Federal undertakings that might affect the character of such properties. If a property is listed in the Register, certain Federal rehabilitation tax credits for rehabilitation and other provisions may apply. Public visitation rights are not required of owners. The results of listing in the National Register are as follows:

*Consideration in Planning for Federal, Federally Licensed, and Federally Assisted Projects:* Section 106 of the National Historic Preservation Act of 1966 requires that Federal agencies allow the Advisory Council on Historic Preservation an opportunity to comment on all projects affecting historic properties listed in the National Register. For further information, please refer to 36 CFR 800.

*Eligibility for Federal Tax Provisions:* If a property is listed in the National Register, certain Federal tax provisions may apply. The Tax Reform Act of 1986 (which revised the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984) provides, as of January 1, 1987, for a 20% investment tax credit with a full adjustment to basis for rehabilitating historic commercial, industrial, and rental residential buildings. The former 15% and 20% Investment Tax Credits (ITCs) for rehabilitation of older commercial buildings are combined into a single 10% ITC for commercial and industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner. Because the tax aspects outlined above are complex, individuals should consult legal counsel or the appropriate local Internal Revenue Service office for assistance in determining the tax consequences of the above provisions. For further information on certification requirements, please refer to 36 CFR 67.

*Qualification for Federal Grants for Historic Preservation When Funds Are Available:* The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of the Interior to grant matching funds to the States (and the District of Columbia) for, among other things, the preservation and protection of properties listed in the National Register.

Owners of private properties nominated to the National Register have an opportunity to concur with or object to listing in accord with the National Historic Preservation Act and 36 CFR 60. Any owner or partial owner of private property who chooses to object to listing must submit to the State Historic Preservation Officer a notarized statement certifying that the party is the sole or partial owner of the private property, and objects to the listing. Each owner or partial owner of private property has one vote regardless of the portion of the property that the party owns. If a majority of private property owners object, a property will not be listed. However, the State Historic Preservation Officer shall submit the nomination to the Keeper of the National Register of Historic Places for a determination of eligibility for listing in the National Register. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow the Advisory Council on Historic Preservation an opportunity to comment before the agency may fund, license, or assist a project which will affect the property. If an owner chooses to object to the listing of the property, the notarized objection must be submitted to the above address by the date of the Review Board meeting.

## DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

## NOTICE OF PUBLIC HEARING

The District of Columbia Public Charter School Board invites the public to participate in public hearings on eleven applications to establish public charter schools in Washington, DC, as well as four requests to amend charters of established charter schools. The hearings will be held on Monday, May 15, 2006 from 6:00 – 9:30 PM at GALA Theatre, 3333 14<sup>th</sup> St., NW and Tuesday, May 16, 2006 from 6:00 – 8:30 PM at the Public Charter School Board Conference Room, 3333 14<sup>th</sup> St., NW, 2<sup>nd</sup> floor. Both locations are accessible via the Green Line to Columbia Heights Metro Station.

The Board is holding the public hearings as a part of its 2006 application review process. A review of the technical quality of the applications is underway and the Board is now inviting comment from the general public.

During the May 15 public hearing, proposed public charter schools will be described by applicants. During the May 16 public hearing, proposed changes to existing public charter schools will be described by charter school operators. The Board invites the public's participation in the hearings and asks members of the public to testify on the impact proposed public charter schools and proposed public charter school amendments will have on:

1. students, parents, and the community;
2. other public schools in the District of Columbia; and
3. the quality of education in the city.

Individuals who wish to testify should call the Board's office at (202) 328-2660 by 3:00 PM on the day of the hearing to be placed on the hearing schedule and should send, by May 26, 2006, a written copy of their testimony to the District of Columbia Public Charter School Board, 3333 14<sup>th</sup> St., NW, Washington, DC 20010. Copies of the schedule of applicant presentations and summaries of the applications will be available, beginning May 1, 2006, from the Board's office and at several locations in the city, including:

Martin Luther King Library  
901 G Street, NW

Tenley-Friendship Public Library  
4450 Wisconsin Avenue, NW

Marshall Heights Community Development Corporation  
3917 Minnesota Avenue, NE

Development Corporation of Columbia Heights  
3419 Fourteenth Street, NW

Advisory Neighborhood Commissioners also have been sent copies for distribution to the public.

Sign and/or Spanish language interpretation will be available upon request. Members of the public needing these services are requested to contact the Board no later than May 8, 2006 so that arrangements can be made.